

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION**

GARY E. SUTTON,)	
)	
Petitioner,)	
)	
v.)	No. 1:08CV175RWS
)	
UNITED STATES OF AMERICA,)	
)	
Respondent.)	

MEMORANDUM AND ORDER

On May 1, 2009, Retained Counsel, Robert Ramsey, entered his appearance for Petitioner Gary E. Sutton. Ramsey moved to withdraw as counsel of record on August 21, 2009, and that motion was granted on October 20, 2009. Over the course of the next six months, Sutton filed several motions for extensions of time to retain counsel. Sutton was unable to do so. On May 10, 2010, however, Sutton moved this Court to appoint counsel to represent him in his motion under 28 U.S.C. § 2255.

There is no constitutional or statutory right to appointed counsel in a civil case. Nelson v. Redfield Lithograph Printing, 728 F.2d 1003, 1004 (8th Cir. 1984). In determining whether to appoint counsel, a court considers several factors including (1) whether the plaintiff has presented non-frivolous allegations supporting his prayer for relief; (2) whether the plaintiff will substantially benefit from the appointment of counsel; (3) whether there is a need to further investigate

and present the facts related to the plaintiff's allegations; and (4) whether the factual and legal issues presented by the action are complex. See Battle v. Armontrout, 902 F.2d 701, 702 (8th Cir. 1990); Johnson v. Williams, 788 F.2d 1319, 1322-23 (8th Cir. 1986); Nelson, 728 F.2d at 1005.

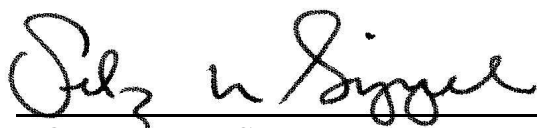
After considering these factors, the Court believes that the facts and legal issues involved in Sutton's case are not so complicated that the appointment of counsel is warranted at this time. Therefore, the Court will deny Sutton's motion.

Accordingly,

IT IS HEREBY ORDERED that Petitioner Gary E. Sutton's motion for the appointment of counsel [#40] is **DENIED** without prejudice.

IT IS FURTHER ORDERED that Petitioner Gary E. Sutton shall file his reply to the United States of America's Response in Opposition no later than **July 2, 2010** or the Court shall take the matter as submitted.

Dated this 25th Day of May, 2010.

A handwritten signature in black ink, appearing to read "Rodney W. Sippe", written over a horizontal line.

RODNEY W. SIPPEL
UNITED STATES DISTRICT JUDGE